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JANUARY—FEBRUARY
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COURT NEWS

Courthouse Files Online

New rules guide electronic access of court records

SHERRI ENG

With the establishment of statewide guidelines for public access to electronic court records, the California judicial branch has taken yet another step to broaden access to the courts.

At its December 18 meeting, the Judicial Council unanimously approved its Court Technology Advisory Committee's (CTAC) recommendations on access to electronic records, further enabling California's courts to integrate this technology into the day-to-day business of court administration.

CTAC made its recommendations to the council in response to a mandate by the Legislature to establish rules for electronic filing and access to public records. (Rules 2070–2076 of the California Rules of Court will govern the new statewide policies.) The deadline required to adopt such

rules is January 1, 2003, but CTAC recommended that electronic access policies take effect six months earlier, on July 1, 2002.

"The committee's purpose has been to foster the transition from paper to electronic court records, encouraging our trial courts to realize the benefits in efficiency and cost-effectiveness, while also recognizing the fundamental changes that use of modern information technology implies," said CTAC's chair, Justice Joanne C. Parrilli of the Court of Appeal's First Appellate District, in her presentation on behalf of the committee to the council at its December 18 meeting. "The new rules permit courts to advance with technology while continuing to test the safety and feasibility of making records available electronically."

The issue of providing public access to electronic court records is a balancing act, noted Justice Parrilli, as court administrators must toe the fine line of protecting the privacy of individuals identified in court docu-

ments and making public records more available. "When we open the courthouse file cabinet, so to speak, to what the cyberworld and the information highway has made possible, we arrive quickly at an intersection of important and frequently conflicting interests. Time and again the committee confronted the daunting question of *which* 'public' we serve when the courts provide information in electronic form." The committee's report makes express mention of this issue as it states, "Like other government entities that collect and maintain sensitive personal information, the judiciary must balance the public interest in open court records against privacy and other legitimate interests in limiting disclosure."

THE RULES

The new rules dictate that, to the extent feasible, courts must provide remote electronic access to electronic registers of actions, calendars, and indexes in all cases, as well as other electronic records in civil and certain probate cases. The courts

must also provide access at the courthouse to all public electronic case records. The register of actions should include the title of each case, the date it began, and a memorandum on every subsequent proceeding in the action with its date. Additionally, when a court provides electronic access to records other than registers, calendars, and indexes, it may do so only on a case-by-case basis, using the case number, caption, or name of a party to identify the record. Likewise, the court may not provide access to any part of a record that is sealed by court order or made confidential by law.

Committee members examined the concept of "practical obscurity," a term coined by the U.S. Supreme Court. This essentially renders paper court records hidden due to the difficulty of

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A New Approach to Judicial Education

CJER moves to innovative curriculum-based process

BLAINE CORREN

This year's selection of new members for CJER's education committees is the latest step in a larger, formal curriculum development process that CJER is undertaking as a new way to plan judicial branch education. The new process, which officially began in 2000 and will continue for the next 12 to 18 months, has included converting CJER's existing ad hoc, event-based planning committees into permanent subject matter or audience-specific education committees.

"Event-based education focuses on filling a distinct time slot and tends to be re-created each time the event is planned," says Karen M. Thorson, director of the Administrative Office of the Courts' (AOC) Education Division, also known as the Center for Judicial Education and Research (CJER). "Curriculum-based education is much more

stable and yet can be designed to target specific audiences at entry, intermediate, or advanced levels."

Ms. Thorson adds that the new curriculum-based process allows for permanent committees that will have rotating memberships. "Event planning committees can completely change each year, which can result in the delivery of inconsistent educational messages."

"The curriculum-based planning committees are forming an overall curriculum for their topic areas, which can then be focused down to a specific delivery plan," says Robert Lowney, managing attorney of CJER's judicial education programs. "Developing a consistent resource of educational tools allows us to deliver the information via many different vehicles. Curriculum can be easily adapted and presented at an in-person seminar, on a Web site, or through satellite broadcasting."

DEVELOPING THE NEW PROCESS

In February 2000, CJER began its first application process for the new education committees, converting its event-based/institute planning committees to those focused on developing subject matter and audience-specific curriculum. In May of that same year, the CJER Governing Committee reviewed the applications and appointed all members to two-year terms.

To aid the newly inaugurated members in their tasks, CJER's Governing Committee

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The Probate and Mental Health Education Committee meets to develop its curriculum-based educational materials. It is one of CJER's 29 education committees undertaking a formal curriculum development process as a new way to plan judicial branch education.



Chief Justice
Ronald M.
George

MESSAGE FROM THE CHIEF JUSTICE

Youth Courts Proliferate

On October 25, 2001, Chief Justice Ronald M. George delivered opening remarks at the Youth Court Training Conference at the Hiram W. Johnson State Office Building in San Francisco. Organized and sponsored by the Center for Families, Children & the Courts and the Superior Court of Placer County, the conference brought together judicial leaders from throughout the state to learn more about youth courts, an alternative approach to the traditional justice system.

In his address, Chief Justice George discussed the success youth courts have experienced and the efforts by the Judicial Council and the courts to develop innovative alternatives to improve the legal system. Following is a transcript of his remarks.

Good morning and welcome to the California Youth Court Training Conference. On behalf of the Judicial Council and the Center for Families, Children & the Courts—a division of the Administrative Office of the Courts very ably led by Diane Nunn—we are very pleased that you are here to learn more about this exciting resource.

Teams and participants are in attendance from throughout California. There is a great deal of expertise in this room. Not only the formal presenters, but also many of the individuals in attendance, already have been involved directly in youth court programs. This program should provide an excellent forum for sharing information about successful approaches.

Youth courts provide an alternative approach to the traditional juvenile justice system. They are youth focused and youth driven. By giving young people substantial responsibility, these courts offer not only an effective alternative form of adjudication, but also an effective method of training students to engage in good decision making and to gain better understanding of the consequences of their actions and those of their peers.

Just 10 years ago, there were approximately 50 youth/teen courts nationwide. Now, there are more than 650, with at least 29 trial courts in California participating in a teen court program. This is just one facet of a wide variety of efforts undertaken by our court system to educate youngsters about our court system, serving as part of our overall efforts both to provide better access to our courts and to enhance public trust and confidence in our system of justice.

PUBLIC EDUCATION

For example, courts across the state have developed a number of exciting educational programs aimed at local students and schools. In one community, judges hold regular classes every other week at which they teach eighth grade students about the courts. In another locale, the courts participate in a program in which 20 to 30 students from local high schools are treated as members of the press corps. They observe court sessions, conduct interviews, and write stories for submission to a Web site for public posting.

Yet another court has a program focused on youth who have been involved in hate-motivated behavior, and other courts are trying innovative ways to inform teens about the costs and consequences of driving while under the influence.

COLLABORATIVE JUSTICE COURTS

Youth courts focus on the next generation. They help to build better understanding about the courts, foster trust in the judicial system, and provide hands-on experience for students to demonstrate the importance of the rule of law. Youth courts also are part of a larger movement aimed at developing what generally have been described as collaborative justice courts. These specialized courts are designed to resolve designated classes of cases through targeted approaches intended to make a significant difference in outcomes—both short-term and long-term.

Drug courts, domestic violence courts, juvenile mental health courts, and youth courts all are a part of our system's efforts to expand our horizons. We are working to join other public and community resources in developing methods and solutions that traditional adjudication

otherwise might not be able to provide. In doing so, we are following through on our branch's commitment to improve access by improving our ability to respond to community needs.

YOUTH/PEER COURTS

The result has been innovation that has brought often striking results. Thus, teen courts look at how peer pressure can be used as a positive force—not only to change behavior among the teens involved, but also to improve understanding about the pressures and concerns faced by the adults who otherwise might be filling the roles handled by students.

Youth courts also have shown that they can decrease the workload of the juvenile court, generally reduce juvenile crime rates and recidivism, and mitigate some of the stigma that may attach from more traditional court proceedings. Youth volunteers generally play most of the roles: prosecutor, public defender, jurors, and so forth. Some roles are played by those whose own sentences include serving as a participant in one role or another in the youth court.

Some teen courts adjudicate guilt or innocence, although most serve only as a sentencing court after the offender has admitted guilt or agreed not to contest the charges. Some youth courts are juvenile justice-system based, others community based, and yet others grounded in school. In short, there is no one model, but instead several variations that can achieve significant results.

I personally have observed two youth courts in action, as you too will have a chance to do later today. I was very impressed with the process. The teens participating took their roles seriously, and I was struck by how much the participation of peers in the proceedings seemed to affect not only the offender, but everyone involved. I was struck by how "professional" the participants were, and how adept they were in cutting through their contemporaries' excuses for criminal behavior.

FUNDING

The Judicial Council and the Administrative Office of the Courts have been strongly committed to encouraging the efforts of collaborative justice courts. We have obtained \$320,000 in funding from the Office of Criminal Justice Planning for fiscal year 2001–2002, in order to fund youth courts. In August of this year, the Judicial Council's Collaborative Justice Courts Advisory Committee recommended that 11 trial courts receive mini-grants from this fund, and we hope that these grants and this conference represent the start of our ability to provide increased support for youth and collaborative justice courts.

SPECIAL THANKS

I will end by recognizing a few important resources that are integral to this conference. Judge Richard Couzens from the Superior Court of Placer County and Karen Green, Placer County's peer court coordinator, were major forces in organizing this conference—with very able assistance from staff of the Center for Families, Children & the Courts. Judge Couzens is a former member of the Judicial Council, and his work with Placer's youth court is emblematic of the results that can flow from close cooperation and integration between local courts and the statewide resources of the Judicial Council and the Administrative Office of the Courts.

The Judicial Council has been a major proponent of collaborative justice. Judge Couzens, with the help of Karen Green and others, turned that statewide initiative into local action. And here, today, they are helping others across the state learn from their own experience in order to expand and improve this excellent program across California.

On behalf of the Judicial Council, the Center for Families, Children & the Courts, and all those involved in this important project, I thank you for being here for what promises to be an exciting and informative conference. I wish I could stay for the upcoming youth court session, but I know from experience that you have an eye-opening and encouraging program ahead of you. Enjoy the conference, and thank you again for inviting me to participate.

By giving young people substantial responsibility, these [youth] courts offer not only an effective alternative form of adjudication, but also an effective method of training students to engage in good decision making and to gain better understanding of the consequences of their actions and those of their peers.

Judicial Council Action

Council Adopts Uniform Civil Case Management Rules

The Judicial Council took another step forward in modernizing state court procedures by adopting new uniform rules that govern civil case management in California's 58 superior courts. Adopted at the council's December 18 meeting, the rules take effect on July 1, 2002.

Designed to simplify court procedures, the new rules aim to establish greater uniformity in civil practice, promote consistent case management, and help reduce the costs of litigation. The rules will:

- Provide consistent procedures throughout California for court review of civil cases;
- Ensure that most civil cases are reviewed within six months of filing;
- Establish uniform times for the service of pleadings and require that defaults be entered if responsive pleadings are not truly served, enabling litigants to know the times at which papers must be served and promoting the expeditious treatment of civil cases; and
- Provide for a standard civil case management form that will replace the wide variety of local forms that many trial courts now require litigants to file in civil litigation.

The adoption of uniform rules is one of the Judicial Council's goals in its ongoing efforts to

improve state court administration. The council has previously adopted uniform rules in the areas of pleadings, motions and demurrers, ex parte applications, provisional remedies, discovery, class actions, receiverships, and the form of court documents. The report on case management, which contains the new rules and the civil case management form, is available at www.courtinfo.ca.gov/rules/reports/documents/ruleform05.pdf.

OTHER ACTIONS

In other actions, the council:

- Approved rules permitting broad electronic access to most civil records while restricting remote Internet access to criminal records and other cases that are likely to contain sensitive personal information. (See story on page 1.)
- Delegated authority to Chief Justice Ronald M. George and Administrative Director of the Courts William C. Vickrey to negotiate one-time budget reductions of \$38 million in the judicial branch's fiscal year 2001–2002 budget and up to \$90 million in the fiscal year 2002–2003 budget. The council also approved budget allocations to the Superior Court of Los Angeles County for its one-day/one-trial program and juror education.
- Agreed to sponsor legislation to simplify the process of de-

manding a jury in civil cases and to clarify the circumstances under which the right to a jury trial may be waived.

□ Agreed to sponsor legislation to authorize the Judicial Council to make rules to govern the operation of pilot projects to foster innovation and improve access to the courts for families and children. These pilot projects will focus on coordinated and unified family court proceedings.

□ Adopted a new rule of court to provide standards for the education, experience, and training required of all court-appointed child custody evaluators. New court forms would enable the custody evaluator to declare under penalty of perjury that he or she meets the requirements contained in the new rule and would enable the court to set forth the scope of the child custody evaluation being performed.

□ Accepted a progress report from the council's Collaborative Justice Courts Advisory Committee, which shows positive results from drug courts and other collaborative courts. The council voted to keep the committee in existence, with its current structure and duties. (See sidebar.)

□ Agreed to sponsor legislation next year to amend the Tort Claims Act to describe explicitly the requirements for presenting and resolving claims and litigation against the trial courts, appellate courts, judges, the Judicial Council, the Administrative Office of the Courts (AOC), and the employees of those entities. ■

California Courts Serving Up Collaborative Justice

According to a recent report, collaborative justice continues to increase in scope and scale throughout California's courts.

Superior Court of Butte County Judge Darrell W. Stevens, chair of the Collaborative Justice Courts Advisory Committee, presented the report to the Judicial Council at its December 18 meeting. In addition to accepting the committee's report, the council also approved the continued existence of the committee with its current structure and duties.

One of the first duties the committee assumed since its creation in January 2000 was the development of criteria for identifying and evaluating collaborative justice courts. It made a list of characteristics that distinguish collaborative justice courts, and from that list distilled a brief definition:

Collaborative justice courts include the integration of services with judicial case processing, ongoing judicial intervention, close monitoring of and immediate response to behavior, multidisciplinary involvement, and collaboration with community-based and government organizations.

Working from this definition, the committee conducted surveys and collected data on the growth and proliferation of collaborative justice courts throughout California. These programs include domestic violence courts, mental health courts, youth/peer courts, and drug courts, as well as other court models such as community courts and restorative justice programs.

Drug courts exemplify one area of dramatic growth in collaborative justice. In 1991 the only drug court in California was located in Oakland; according to the committee's report, California currently has 91 adult drug courts, 34 juvenile delinquency drug courts, and 22 juvenile dependency drug courts. The report also includes figures on the growth of other kinds of collaborative justice courts.

In addition to identifying the state's existing collaborative justice courts, in the report the committee provides (1) a description of its methods for evaluating collaborative justice courts, (2) a summary of locally generated best practices (the committee partnered with the National Center for State Courts and the Justice Management Institute to identify promising practices on a statewide and national basis), (3) an assessment of funding issues, and (4) an update on its progress in developing recommendations for minimum judicial education standards in the area of collaborative justice.

● For more information on the Collaborative Justice Courts Advisory Committee, visit the California Courts' Web site at www.courtinfo.ca.gov/courtadmin/jc/advisorycommittees.htm, or contact Nancy Taylor, 415-865-7607; e-mail: nancy.taylor@jud.ca.gov.

Supreme Court Opens Its Arguments to Cameras

On December 5, 2001, for the first time since 1995, the California Supreme Court granted television cameras access to its oral argument proceedings.

The court opened up its proceedings to "pooled coverage," allowing only one television camera and one still photographer in the actual courtroom. But more than 30 representatives from various media outlets were on hand at the Ronald Reagan State Office Building in Los Angeles to report on the oral arguments in *Manduley v. Superior Court* (S095992).

The *Manduley* case involves a constitutional challenge to Proposition 21, the juvenile justice initiative approved by state voters in the March 2000 general election that, among other things, allows prosecutors rather than judges to decide whether to try juveniles as adults on certain criminal charges. The court has 90 days from the date of oral arguments to render a decision in the case. (No decision on the case had been made at the time of this article.)

"The more that our courts improve public access to their proceedings, the more the public will learn to understand and appreciate the important role that the judicial branch plays in our government," said Chief Justice Ronald M. George in a press release distributed by the court.

Cameras are permitted with judicial consent in California trial and appellate courtrooms under rule 980 of the California Rules of Court. The Judicial Council first adopted rule 980 in 1966, but the rule at that time prohibited electronic media coverage in court except in limited circumstances. The council later adopted an experimental rule that permitted a trial period of camera coverage starting in 1980, and then amended rule 980 in 1984 to permit camera coverage on a permanent basis.

But in 1997, after a statewide study, the council further amended rule 980 to require courts to consider 18 factors in ruling on requests for camera coverage. These factors include the importance of promoting public access to the judicial sys-

tem, preserving the privacy rights of participants, and maintaining the security and dignity of the court.

In July 2000, the Administrative Office of the Courts (AOC) released *Cameras in the Courts*, a report summarizing three years of data, received between January 1997 and December 1999, from the trial courts on the implementation of rule 980. According to the *Order on Media Request to Permit Coverage* forms collected by the AOC as part of that study, trial courts granted 81 percent of the media requests for coverage of court proceedings. ■



For the first time since 1995, the California Supreme Court granted television cameras access to its oral argument proceedings. Photo: Nick Ut, Associated Press